

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 7049**

**BILL NUMBER:** HB 1301

**NOTE PREPARED:** Feb 25, 2014

**BILL AMENDED:** Feb 25, 2014

**SUBJECT:** Fire and Building Safety Issues.

**FIRST AUTHOR:** Rep. VanNatter

**FIRST SPONSOR:** Sen. Yoder

**BILL STATUS:** CR Adopted - 2<sup>nd</sup> House

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) The bill repeals the statute requiring the Division of Fire and Building Safety (Division) to employ a State Building Law Compliance Officer. It creates the Office of State Building Commissioner, who is appointed by the Governor to serve: (1) at the pleasure of the Governor; and (2) full time. The bill provides that the State Building Commissioner has the duties and responsibilities of the State Building Law Compliance Officer. It also requires the State Building Commissioner to issue a written interpretation of a building law or fire safety law not later than 10 business days after the date of receiving a request.

The bill provides that a design release may be issued without a plan review if: (1) the application for a design release is complete; and (2) the application for a design release is not selected for a plan review by the Division. It establishes deadlines for the Division to conduct plan reviews and provide notices. It provides that, with certain exceptions, if the Division fails to provide notice or complete plan review within the time required by statute, a design release must be issued without further review. The bill provides that if a plan review reveals one or more state building or fire code violations determined by the Division to pose a substantial threat to the public health, safety, or welfare: (1) the Division is required to notify: (A) the preparer of the plans; (B) the licensing agency of the preparer for possible disciplinary sanctions; and (C) the project owner or general contractor; and (2) the time limitations for plan review do not apply. It requires the Division to maintain a single electronic file regarding each project for which a design release application is filed.

The bill specifies the conditions under which a city, town, or county may perform a plan review that is within the authority of the Division to perform.

The bill provides that a townhouse is a Class 2 structure (instead of a Class 1 structure) for purposes of the state fire, building, and equipment laws.

The bill also provides that a plan review may be limited to the corrections required by the Division. It allows for an administrative hearing to be conducted to determine if action is appropriate when the results of a plan review reveal that an engineer or architect knowingly or recklessly submitted plans or specifications that are determined to pose a wanton and willful disregard for the public health, safety, or welfare.

The bill also prohibits a political subdivision from adopting an ordinance or other requirement after February 28, 2013, that would require a builder or remodeler to be licensed, certified, permitted, registered, or listed by the political subdivision as a condition to the builder or remodeler constructing or remodeling a residential dwelling. It provides that a political subdivision is not prohibited from licensing, permitting, or registering specific trades or issuing permits and approvals that regulate the use, planning, and development of property. It repeals a noncode provision that prohibits the regulation of builders and remodelers by political subdivisions. (This provision is currently set to expire July 1, 2015.)

**Effective Date:** Upon passage; July 1, 2014.

**Explanation of State Expenditures:** *Creation of Office of State Building Commissioner:* The bill eliminates the position of the State Building Law Compliance Officer and creates a new position of State Building Commissioner, appointed by the Governor. Additionally, the State Building Commissioner is required to issue written interpretations of building law and fire safety law not later than 10 business days after the date of receiving a request.

This provision's requirements are within routine administrative functions of the Department of Homeland Security (DHS) and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

*Design Release Plan Review:* The bill outlines the notice requirements and time frames for the Division in the granting of design releases. The bill requires the Division to maintain a single electronic file regarding each project for which a design release application is filed. The bill requires that plan reviews be limited to the correction required by the Division. The bill also allows for an administrative hearing to be conducted to determine if action is appropriate when the results of a plan review reveal that an engineer or architect knowingly or recklessly submitted plans or specifications that are determined to pose a substantial threat to the public health, safety, or welfare.

The provisions regarding design release plan review are within the routine administrative functions of DHS and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

**Explanation of State Revenues:** *Design Release Plan Review:* The bill provides exceptions where a design release may be issued without a plan review. The effect on the total number of plan reviews is indeterminable. Any change in revenue would affect the Fire and Building Services Fund.

(Revised) *Reclassification of Townhouse:* The bill reclassifies townhouses from Class 1 structures to Class 2 structures. Currently, townhouses are Class 1 structures that may be inspected during construction, alteration, or addition by either the Division or a local inspector in a local jurisdiction with an ordinance approving the inspection of Class 1 structures. As townhouses are considered dwellings, no inspector

inspects these structures after occupancy, unless requested by the occupant.

The bill defines a townhouse as a single-family dwelling unit constructed in a group of three or more attached units, in which each unit extends from the foundation to the roof. Also, a townhouse may not be more than three stories in height and is separated from each unit by either two one-hour fire resistance-rated walls with exposure from both sides or a common two-hour fire resistance-rated wall that has open space on at least two sides.

Reclassifying these structures to Class 2 means that the Division will no longer inspect these structures, which will lead to lower revenues into the Fire and Building Services Fund. The total reduction in revenue is indeterminate at this time.

**Explanation of Local Expenditures:** *Regulation of Builders and Remodelers:* The bill will impact local units in as much as they are no longer allowed to pass ordinances requiring licensure, certification, permitting, registration or listing of a builder or a remodeler as a condition to the builder or remodeler working on a residential dwelling after February 28, 2013.

Communities who have already passed ordinances or other requirements in this regard prior to March 1, 2013, will still be able to enforce the ordinances. Local units are still allowed to license, permit, and/or register specific trades and issue permits and approvals that regulate the use, planning, and development of property.

**Explanation of Local Revenues:** (Revised) *Design Release Plan Review:* The bill prohibits local units from performing plan reviews, except in those cases where a local unit performs a review as a part of a larger fire and safety inspection program or a voluntary plan review program of the local unit. This provision will likely reduce revenues to the small number of local units who currently perform these plan reviews.

*Reclassification of Townhouse:* The bill reclassifies townhouses from Class 1 structures to Class 2 structures. Typically, local units of government inspect Class 2 structures. Therefore, the bill may increase inspection revenues for local units by an indeterminate amount.

**State Agencies Affected:** Indiana Department of Homeland Security.

**Local Agencies Affected:** Local building and fire code enforcement agencies.

**Information Sources:** Mara Snyder, DHS, [msnyder@dhs.in.gov](mailto:msnyder@dhs.in.gov); [www.in.gov/dhs/2590.htm](http://www.in.gov/dhs/2590.htm).

**Fiscal Analyst:** Stephanie Wells, 232-9866.